

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
EUGENE DIVISION**

Elizabeth HUNTER; et al., on behalf of
themselves and all others similarly situated,

Plaintiffs,

v.

U.S. DEPARTMENT OF EDUCATION and
Suzanne GOLDBERG, in her official capacity as
Acting Assistant Secretary for Civil Rights,
U.S. Department of Education,

Defendants.

Civil Action No. 6:21-cv-00474-
AA

**DECLARATION OF ZAYN
SILVA**

I, Zayn Silva, declare:

1. I am over 18 years of age and have personal knowledge of the matters stated in this declaration and would testify truthfully to them if called upon to do so.

2. I reside in Brooklyn, New York and have lived here most of my life.

3. I am 29 years old.

4. I went to high school at Progress High School, Grand Street Campus in Williamsburg.

5. I attended a Pentecostal church growing up and my faith really developed in high school.

6. I am a Pentecostal Christian and am a member of First Presbyterian Church of Brooklyn, where I do LGBTQ+ ministry.

7. I am a Black and Latinx transman.

8. I am also pansexual.

9. Unfortunately, my family's church rejected me because I am a transman and because I refused to continue trying to change my gender identity.

10. I was outed to my pastor by a mentor of mine at the age of 19. This betrayal hurt deeply and hurts me to this day.

11. The church then called me to a meeting. The meeting was a therapy session in which they tried to change my gender identity. I left in the middle of the session. I knew at that point that I had to leave that church.

12. Despite rejection from my church, I remained a committed Christian with a deep faith.

13. As a ministry, I started Transalike (www.transalike.com), which is an online platform to help trans youth find a safe church to attend and to hear that God loves them just as they are.

14. I was further led by God to pursue a seminary education.

15. I thought that attending seminary at Nyack would be a good fit because it was well known and well-regarded by my family and has a good reputation in my community.

16. Prior to applying, I called Nyack's support number and spoke with a Nyack representative to ensure that being transgender would not be a problem with Nyack.

17. The Nyack representative informed me that the seminary did not have a problem with me being transgender and that Nyack wanted me to apply to the seminary.

18. I then started my admissions application for Nyack in November of 2019.

19. On January 9, 2020, an admissions guidance counselor at Nyack contacted me and provided me the information necessary to finish applying to Nyack. I informed the guidance counselor that I was trans and he told me he didn't think there would be a problem.

20. He also provided a fee waiver for my application.

21. He also invited me to an Open House at Nyack and informed me that I could bring my official transcripts and name change documents with me to the Open House

22. On the same day, I completed my application for admission to Nyack. In my application, I described my faith journey and my gender transition. I stated that “I live my life every day understanding my purpose. To glorify God. I try to do this in all facets of my life, being mindful with what words I use, and the actions of my heart. I dedicate every day to letting the youth know, especially the marginalized LGBT, that God is the answer. I do this with compassion, empathy and an open heart. I know the feeling of isolation and rejection, and the need for counsel. I know what it’s like to feel confused and desperate for God’s love. I have found that in the very community I help.”

23. At this point, my seminary projects looked promising.

24. However, things soon took a turn for the worse.

25. On Feb 3, 2020, the admissions counselor texted me and stated that Nyack’s Director of Admissions wanted to speak with me. We agreed to speak that same day.

26. During this phone call, he informed me that Nyack was declining admission to me because my application stated that I am transgender and that I am proud of being transgender, rather than ashamed, repentant and attempting to identify with the sex I was assigned at birth.

27. I pleaded with the Director of Admissions to change Nyack’s decision, explaining that even though I am transgender, I am a born-again Christian who is devoted to serving God and those around me.

28. I tried to explain that I am worthy of acceptance even though I am transgender.

29. During this call, the Director of Admissions told me that he appreciated my “honesty” regarding his transgender identity during the admissions process. He informed me that

other transgender and queer students had applied to Nyack but were not “honest” about their gender identity or sexual orientation. He implied that those students had done something wrong by not disclosing their transgender identity during the admissions process.

30. He emphasized to me that I was not being denied admission because of a lack of honesty on my application. Rather, I was being denied admission because of my openness and disclosure of my gender identity.

31. Sadly, despite my heartfelt conversation with he, the Director of Admissions refused to reconsider Nyack’s decision to reject me.

32. He informed me that Nyack’s Board of Trustees had made the decision to deny my application for admission because the Board “believes in the male and female,” follows the Christian Missionary Alliance on gender identity issues and did not approve of my lifestyle.

33. This rejection was like reliving a trauma. Nyack told me that something was not right with me and that I needed to change who I was.

34. I was shocked and saddened. I asked people what I should do in this situation.

35. I asked the Director of Admissions to provide Nyack’s rejection in writing, along with an explanation that the basis of Nyack’s rejection was my gender identity.

36. I wanted to know whether this was actually Nyack’s decision rather than this one person’s decision. I didn’t know who the people on the Board of Trustees were.

37. It felt strange to have all of this done over a phone call and not in writing.

38. I further requested him to provide me with Nyack’s policies that formed the basis for its decision to deny me admission. He told me that he would see what he could do and that he would discuss it with the Board.

39. I sent several follow-up emails to the Director of Admission between February 3 and February 26, 2020, requesting a rejection letter explaining the basis for Nyack's denial of admission. He never responded to any of my correspondences.

40. According to its website, Nyack maintains a non-discrimination policy and purports to comply with Title IX: "Nyack College admits students of any race, color, sex, age, or national and ethnic origin to all rights, privileges, programs, and activities generally accorded or made available to students at the college. Programs are operated in compliance with Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, Title VI of the Civil Rights Act of 1964, and all other relevant statutes and regulations."

41. According to Nyack's "Nine Things to Know About Title IX" publication (www.nyack.edu/files/Nine_things_to_know_about_Title_IX.pdf), Nyack acknowledges that Title IX prohibits discrimination based on sex and that Title IX applies to all students at Nyack.

42. Nyack is subject to Title IX because Nyack receives federal funds from the U.S. Department of Education.

43. There is no record of Nyack requesting or receiving a religious exemption from Title IX on the U.S. Department of Education website that discloses educational institutions that have requested and/or received such an exemption.

44. Nyack's code of conduct and other policies regulating students at Nyack do not prohibit transgender students from enrolling. Nyack does not have a policy or position statement on gender identity.

45. Nyack's policies generally do not address gender identity at all, other than to state that prohibitions on sex discrimination and harassment apply equally to discrimination and harassment based on gender identity.

46. Nyack's rejection hurt and caused me anxiety and to feel depressed. I didn't immediately apply to another seminary because this rejection pushed me off course. I didn't want to go through another rejection from another school.

47. But the rejection also motivated me to continue living my purpose.

48. My purpose in life is to minister to transgender people and to tell them the good news of God's love.

49. That purpose has not changed despite Nyack's rejection.

50. Working with my church has shown me that I can continue my ministry.

51. My hope is that Nyack and schools like it will become welcoming and open to all of God's people, including transgender people. I hope they show love and offer a safe place for people to learn and love God.

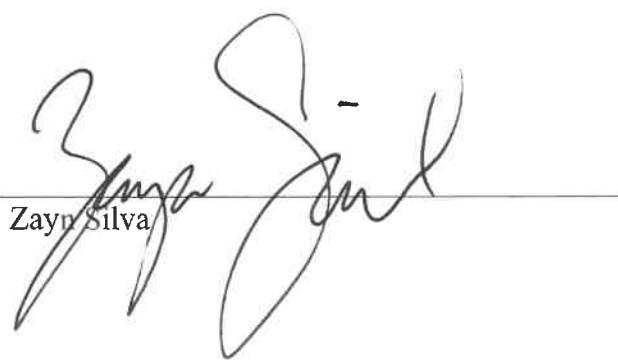
52. I'm starting at a secular school in the fall but I intend to pursue seminary again soon.

53. I am a federal taxpayer and do not feel that my taxes should fund Nyack's discriminatory policies.

Pursuant to 28 U.S.C. §1746, I declare under penalty of perjury that the foregoing is true and correct, and that this declaration was executed this 11th day of February, 2021.

By:

Zayn Silva

A handwritten signature in black ink, appearing to read 'Zayn Silva', is written over a horizontal line. The signature is stylized with large loops and a long horizontal stroke at the end.